

UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

COLIDAR HOMBERT	PING DAIL	TOO TOURLE II	TVESTION		ATTOMIC DOOKET NO.
08/261,537	06/17/94	STEINMAN			20164898USS
•					EXAMINER
		18M2/0406		DADIO.S ART UNIT	PAPER NUMBER
MORGAN & FINN 345 PARK AVEN					4
NEW YORK, NY	I				•
				1808	
				DATE MAILED:	04/06/95
This is a communication from COMMISSIONER OF PATE	the examiner in a NTS AND TRADE	charge of your application. MARKS			047 007 70
_	for	restriction purpo	ses only		
This application has been	n examined [Responsive to communicat	ion filed on		This action is made final.
	1	/			om the date of this letter
A shortened statutory period for response to this action is set to expire month(s), days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133					
Part 1 THE FOLLOWING	 ATTACHMENT(S)	ARE PART OF THIS ACTION	:		
	ces Cited by Exar of by Applicant, PT				tent Drawing Review, PTO-948. Application, PTO-152.
	1	ng Changes, PTO-1474.	ē. 🗆	CO OT ITALOTTED PERCENT	
Part II SUMMARY OF AC	TION				
1. Claims	- a3				are pending in the application.
Of the above,	claims			are	withdrawn from consideration.
2. Claims	· · · · · · · · · · · · · · · · · · ·				have been cancelled.
3. Claims					_ are allowed.
4. Claims			<u>.</u>		_ are rejected.
5. Claims					are objected to.
6. Claims 1 -	<u> </u>		a	re subject to restriction	on or election requirement.
7. This application has	been filed with inf	ormal drawings under 37 C.F.R	. 1.85 which are	acceptable for exam	ination purposes.
8. Formal drawings an	required in respo	nse to this Office action.			
9. The corrected or su	 	nave been received on		. Under 37 C	C.F.R. 1.84 these drawings
		(see explanation or Notice of D			
10. The proposed addit	onal or substitute	sheet(s) of drawings, filed on miner (see explanation).		has (have) been	□approved by the
	1	has	been Danorm	vad: 🗆 disanomora	(see explanation)
_	1				•
D been filed in pare	nace of the claim nt application, ser	n for priority under 35 U.S.C. 1 ial no;	iled on	copy has Libeen r	eceived LI not been received
13. Since this application	n apppears to be i	n condition for allowance excep	t for formal matte	ers, prosecution as to	the merits is closed in
accordance with the	practice under Ex	parte Quayle, 1935 C.D. 11; 45	53 O.G. 213.		
14. Other					

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

Art Unit 1808

-2-

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-13 and 22-23, drawn to a method of producing a population of dendritic cell precursors and the dendritic cell precursors prepared by the method, classified in Class 435, subclass 240.2.

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II. Claims 14-16 and 18, drawn to a composition comprising a modified antigen, a method of immunizing using the composition, a vaccine comprising the composition and a method of treating autoimmune disease using the composition, classified in Class 424, subclass 184.1.

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III. Claims 17 and 19, drawn to a composition comprising antigen activated dendritic cells and a method of treating autoimmune disease using the activated cell composition, classified in Class 424, subclass 93.1.

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*** Claims 20-21 are dependent upon claims 18 or 19. Accordingly, claims 20-21 will be examined with either Group II or III to the extent that they are dependent upon claims which are elected.

The inventions are distinct, each from the other because of the following reasons:

The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The product of Group I (claim 22), which is also produced by the method of Group I, is patentably distinct from the products of Groups II (claim 14 and 16) and III (claim

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17). Claim I is drawn to a dendritic cell which is produced by obtaining a dendritic precursor cell tissue source and then culturing the cells *in vitro*. Claims 14 and 16 are drawn to a composition comprising a dendritic cell modified antigen and a vaccine comprising the composition. An antigen is patentably distinct from an animal cell. Claim 17 is drawn to a composition comprising an antigen activated dendritic cell. The activated cell is patentably distinct from an antigen. Furthermore, the antigen activated cell composition is independent and distinct from the dendritic cell precursor which has not been modified. Likewise, the methods of use are materially different in that they use patentably distinct products.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Susan M. Dadio whose telephone number is (703) 308-2392.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group receptionist whose telephone number is (703) 308-0196.

DAVID M. NAFF PRIMARY EXAMINER ART UNIT 1828

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April 5, 1995